

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM HSIAO-YU KU and JOEY ALLEN PERRY

Appeal No. 2005-0599
Application 09/734,805

ON BRIEF

Before HAIRSTON, KRASS and OWENS, *Administrative Patent Judges*.
OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 1-39, which are all of the claims in the application.

THE INVENTION

The appellants claim a method, computer-readable medium and interface repository search facility for searching program object

interface repositories. Claim 1, which claims the method, is illustrative:

1. A method for allowing a user to search program object interface repositories, said Interface Repository (IR) comprising an on-line database accessible through Object Request Broker (ORB) protocol, said interface repositories being stored on one or more server computers and containing metadata or definitions of said available program component interfaces, the method comprising the steps of:

providing a plurality of search criteria fields and a search icon on a graphical user display of a networked client computer;

receiving one or more criterion input from a user via said search criteria fields followed by selection of the search icon;

performing at least one search of at least one IR using said ORB protocol for interfaces to available program objects for which a match exists between the program objects' specifications and the criterion input; and

displaying a list of available interfaces to program objects which match said criterion input on said graphical user display.

THE REFERENCE

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| Hogan et al. (Hogan) | 5,778,368 | Jul. 7, 1998 |
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THE REJECTION

Claims 1-39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hogan.

OPINION

We reverse the aforementioned rejection.

Each of the appellants' independent claims requires using Object Request Broker (ORB) protocol to search at least one interface repository for interfaces to available program objects for which a match exists between the program object's specifications and search criterion input.

Hogan discloses a Real-Time Embedded Software (RTES) apparatus and method for facilitating reuse and visibility of RTES (col. 5, lines 32-34). The apparatus includes at least one repository client and at least one repository server (col. 5, lines 44-46). "Generally, the Repository Client accesses a Repository Server which, in turn, searches for the Repository Units in the 'accessed' Repository database that match the attributes criterion. If there are no matches found in the 'accessed' Repository database, then the Repository Server searches other unrestricted repository databases until matching Repository Units are detected" (col. 9, lines 17-23).

The examiner argues that Hogan's "repositories are accessible through the TCP/IP protocol (Col. 11, lines 9-10)^[1], which is readable an [sic, on] ORB since it is a protocol that permits access to programming objects through a brokering interface (FIG. 4)" (answer, page 3).

The appellants argue (brief, page 8):

TCP/IP consists of two pieces of protocol: Transmission Control Protocol (TCP) and Internet Protocol (IP). TCP runs at Layer 4 [of the Open Systems Interconnection (OSI) model] as a Transport protocol, breaking large amounts of data into packets, sequencing the packets, resending erred packets, etc. IP runs at Layer 3 as a Network protocol, performing routing and forwarding of data to their proper destinations according to addresses (e.g. IP addresses).

By contrast, CORBA is a total architecture for enabling distributed program components to invoke each other, without having to copy the components from their original point of storage to be executed on a local processor. So, CORBA has a specific, high level protocol for programs needing to find other programs to contact a Broker service. That high level protocol runs at Layer 7 in the OSI model as an Application.

The examiner responds (answer, page 6):

However, Examiner has never stated that the TCP/IP protocol discussed by Hogan et al. fully equates to the CORBA system. Examiner's findings are that the present set of claims do not invoke CORBA at all. As a result, appellant's arguments that CORBA and TCP/IP are dissimilar are essentially moot because examiner does

¹ This portion of Hogan states: "In the preferred embodiment, the Repository System utilizes the TCP/IP protocol suite for networking support and services."

not find that CORBA is ever even being called for in this claim set.

The appellants' claims require searching using ORB, and CORBA is an ORB standard.² Hence, it was improper for the examiner to dismiss the appellants' argument as moot.

To establish a *prima facie* case of anticipation the examiner must provide evidence or technical reasoning which shows that Hogan discloses, expressly or inherently, searching using ORB. See *Corning Glass Works v. Sumitomo Elec. U.S.A., Inc.*, 868 F.2d 1251, 1255-56, 9 USPQ2d 1962, 1965 (Fed. Cir. 1989). The examiner's argument that TCP/IP "is readable an [sic, on] ORB since it is a protocol that permits access to programming objects through a brokering interface (FIG. 4)" (answer, page 3) does not provided the required evidence or technical reasoning which shows that even if both TCP/IP and ORB can be involved in permitting access to programming objects through a brokering interface, they serve the same function in permitting that access rather than functioning at different levels of the OSI model as argued by the

² See *Newton's Telecom Dictionary* 588 (Miller Freeman 1999), a copy of which is provided to the appellants with this decision.



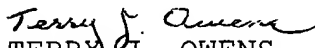
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appellants (brief, pages 7-8). The examiner, therefore, has not carried the burden of establishing a *prima facie* case of anticipation of the appellants' claimed invention.

DECISION

The rejection of claims 1-39 under 35 U.S.C. § 102(b) over Hogan is reversed.

REVERSED

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|  |) | |
| KENNETH W. HAIRSTON |) | |
| Administrative Patent Judge |) | |
| |) | |
|  |) | BOARD OF PATENT |
| ERROL A. KRASS |) | |
| Administrative Patent Judge |) | APPEALS AND |
| |) | |
|  |) | INTERFERENCES |
| TERRY J. OWENS |) | |
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